

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

AUG 28 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2007-0090-PR
)	DEPARTMENT A
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
NATHAN DANIEL TAYLOR,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20050776

Honorable Ted B. Borek, Judge

REVIEW GRANTED; RELIEF DENIED

Nathan Daniel Taylor

Florence
In Propria Persona

H O W A R D, Presiding Judge.

¶1 Petitioner Nathan Taylor seeks review of the trial court's denial of his petition for post-conviction relief, arguing here, as he did below, that his attorney rendered ineffective assistance during plea negotiations. For the following reasons, we deny relief.

¶2 In February 2005, petitioner Nathan Taylor was indicted on four counts of fraudulent scheme and artifice, twelve counts of forgery, one count of burglary in the third

degree, one count of theft by misrepresentation, one count of possession of a deadly weapon by a prohibited possessor, and two counts of possession of a dangerous drug in Pima County Superior Court Cause Number CR-20050594. He was also separately indicted on one count of burglary in the third degree and one count of theft by control and/or by controlling stolen property in this case, Pima County Superior Court Cause Number CR-20050776. In July 2005, Taylor entered into a single plea agreement that disposed of both cases. Pursuant to the agreement, Taylor was convicted in CR-20050594 of one count of fraudulent scheme and artifice and possession of a deadly weapon by a prohibited possessor, and all other charges in that case were dismissed; and in CR-20050776, he was convicted of burglary in the third degree and theft by control and/or by controlling stolen property. Taylor was then sentenced to concurrent, enhanced terms of imprisonment for his convictions in CR-20050594, the longest of which was a somewhat mitigated prison term of 14.5 years, and to concurrent, enhanced, presumptive terms of imprisonment in CR-20050776, for a total of 11.25 years' imprisonment, to be served consecutively to the sentences imposed in CR-20050594. Thus, in sum, Taylor was sentenced to 25.75 years in prison for all convictions resulting from his plea agreement.

¶3 Taylor filed a timely notice of post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S., and in his post-conviction petition alleged trial counsel had “led [him] to believe that he would obtain a more favorable plea agreement than what the State drafted for his signature.” Taylor stated that based on earlier discussions, he had expected

to plead guilty only to theft by control and/or by controlling stolen property in CR-20050776, and that the state would agree to dismiss the burglary charge. He further anticipated that the sentencing range for his conviction in CR-20050776 would be between two and 3.5 years in prison. According to Taylor, his counsel informed him of the actual terms of the plea offer as the state prepared the plea agreement for Taylor's signature.

¶4 The trial court summarily denied relief and dismissed Taylor's petition, concluding he had failed to "identify erroneous advice of his counsel or reliance on such advice as inducing [Taylor's] plea" and had "demonstrate[d] no prejudice." The trial court also noted that Taylor's plea had been accepted in full compliance with Rule 17, Ariz. R. Crim. P., 16A A.R.S. In Taylor's petition for review, he makes the same argument he raised below.¹

¶5 We review a trial court's ruling on a petition for post-conviction relief for an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find none here. Although Taylor maintains he seeks our review only with respect to his

¹Taylor also alleges, for the first time in his petition for review, that "[d]efense counsel failed to consider defendant[']s mental health history. Defendant has ADHD, PTSD and conduct disorder as well as impulsive behavior." He also complains of "prosecutorial vindictiveness." We do not understand the relevance of these allegations to Taylor's claim; in any event, we will not address an issue raised for the first time in a petition for review. *See, e.g., State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (appellate court does not consider issues first presented in petition for review that "have obviously never been presented to the trial court for its consideration"); *see generally* Ariz. R. Crim. P. 32.9.

convictions and sentences in CR-20050776, we think, as the trial court implicitly did, that the plea agreement must be viewed in its entirety, consistent with Arizona contract law. *See Coy v. Fields*, 200 Ariz. 442, ¶ 9, 27 P.3d 799, 802 (App. 2001) (generally, “[p]lea agreements are contractual in nature and subject to contract interpretation”); *see also Cardon v. Cotton Lane Holdings, Inc.*, 173 Ariz. 203, 207, 841 P.2d 198, 202 (1992) (contract construed “in its entirety and in such a way that every part is given effect”).

¶6 The trial court denied relief in a thorough minute entry that clearly identified Taylor’s claim and resolved it correctly and in a manner that permits meaningful review by this court and any other. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore adopt the trial court’s ruling, having no need to rehash it here. *See id.* Although we grant the petition for review, we deny relief.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

J. WILLIAM BRAMMER, JR., Judge